

Order

Michigan Supreme Court
Lansing, Michigan

April 13, 2007

Clifford W. Taylor,
Chief Justice

131942 & (26)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 131942
COA: 267317
Wayne CC: 01-003494-01

CAPRESE D. GARDNER,
Defendant-Appellant.

By order of December 13, 2006, the prosecuting attorney was directed to answer the application for leave to appeal the July 10, 2006 order of the Court of Appeals. On order of the Court, the answer having been received, the application is again considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other peremptory action. MCR 7.302(G)(1). We further ORDER the Wayne Circuit Court, in accordance with Administrative Order 2003-03, to determine whether the defendant is indigent and, if so, to appoint counsel to represent the defendant in this Court. The parties shall submit supplemental briefs within 56 days of the date of the order appointing counsel, addressing whether *People v Preuss*, 436 Mich 714 (1990), and *People v Stoudemire*, 429 Mich 262 (1987), mod *Preuss*, *supra*, correctly held that multiple convictions arising out of a single criminal incident may count as only a single prior conviction for habitual offender purposes, and if so, whether the defendant is entitled to be resentenced.

The Criminal Defense Attorneys of Michigan and the Prosecuting Attorneys Association of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issue presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 13, 2007

Corbin R. Davis

Clerk